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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

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10 BRYAN BREY,

11 Plaintiff,

12 v.

13 COUNTRYWIDE BANK d/b/a
14 COUNTRYWIDE HOME LOAN d/b/a
15 COUNTRYWIDE FINANCIAL, *et al.*,

16 Defendants.

Case No. 2:09-CV-01264-KJD-GWF

ORDER

17 Presently before the Court is Plaintiff's Motion for Reconsideration (#23). Though styled as
18 a letter and docketed by the Clerk's Office as a Motion for a Jury Trial, the letter purports to appeal
19 the Court's Order (#20) under Federal Rule of Civil Procedure 46 and demand a jury trial. The
20 Court, construing the *pro se* pleadings liberally as it must, considers the letter a request for
21 reconsideration of the Court's order dismissing his case. Defendants filed a response in opposition
22 (#24).¹ Plaintiff then filed an untimely Addenda (#30) to his motion, a Correction (#32), and a
23 Request for Judicial Notice (#33) to which Defendants' responded (#34).

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26 ¹Plaintiff also filed a Motion to File Electronically (#31) which the Court denies because Plaintiff has not
demonstrated good cause for allowing to him to file electronically, especially considering that his case has been
dismissed.

1 The Court's Order (#20) dismissing his case was entered on March 12, 2010. Plaintiff's
2 motion to reconsider was filed on March 22, 2010. A Rule 59(e) motion must be filed no later than
3 ten (10) days following entry of the final judgment. See Fed. R. Civ. P. 59(e). A motion for
4 reconsideration is treated as a Rule 59(e) motion if it is timely filed within the specified ten-day
5 period. See Am. Ironworkers & Erectors Inc. v. N. Am. Constr. Corp., 248 F.3d 892, 899 (9th Cir.
6 2001). This motion will be considered under Rule 59(e) since it was clearly filed within the ten-day
7 period.

8 First, Plaintiff has failed to demonstrate good cause for failing to file his Addendum (#30) in
9 a timely manner. He also failed to respond to Defendants' Response (#34) which moved the Court to
10 strike the Addendum as untimely and for raising new arguments for the first time in a reply brief.
11 Therefore, the Court strikes the Addendum (#30), the Correction (#32), and the Request for Judicial
12 Notice (#33).

13 Next, Plaintiff has failed to raise any issues requiring the Court to reconsider its order.
14 Reconsideration under Rule 59(e) is appropriate where: (1) the district court is presented with newly
15 discovered evidence or committed clear error; (2) the initial decision was manifestly unjust; or (3)
16 there is an intervening change in controlling law. See School Dist. No. 1J., 5 F.3d at 1263. Motions
17 made under Rule 59(e) "should not be granted absent highly unusual circumstances." 389 Orange St.
18 Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999). Here, Plaintiff has failed to identify any
19 relevant, newly discovered evidence. Nor has Plaintiff identified specific grounds, other than his
20 demand for a jury trial, identifying why, other than his disagreement with, the initial decision was
21 manifestly unjust.

22 Plaintiff failed to demand a jury trial until his case had been dismissed. Furthermore, the
23 Court found that the facts Plaintiff alleged failed to state a claim upon which a jury could grant relief.
24 Therefore, Plaintiff failed to move the case past his initial pleading and his right to a trial by a jury
25 was not compromised. Since Plaintiff has entirely failed to state grounds for relief, the Court must
26 deny his motion for reconsideration.

1 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration (#23) is
2 **DENIED**;

3 IT IS FURTHER ORDERED that Plaintiff's Motion to File Electronically (#31) is **DENIED**;

4 IT IS FURTHER ORDERED that the Clerk of the Court **STRIKE** the Addendum (#30), the
5 Correction (#32), and the Request for Judicial Notice (#33).

6 DATED this 28TH day of May 2010.

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10 Kent J. Dawson
United States District Judge

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